

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MACSTEEL INTERNATIONAL USA CORP.,

07 CV 6039 (LAK) (MHD)

Plaintiff,

DECLARATION

-against-

M/V GREAT RIVER her engines, boilers,
tackle, etc., CIDO SHIPPING (HK) CO.,
LTD., CIDO SHIPPING KOREA CO. LTD.,
WHITE PINE SHIPPING SA, BULK
LOGISTICS LTD.,

Defendants.

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I, Edward A. Keane, an attorney duly admitted to practice
before this Honorable Court, hereby declare as follows:

1. I am a partner with the firm of MAHONEY & KEANE, LLP,
counsel of record for defendants CIDO SHIPPING (HK) CO., LTD., CIDO
SHIPPING KOREA CO. LTD., and WHITE PINE SHIPPING SA in the above-
captioned action. Based upon my personal knowledge and my review
of the file maintained by my office, I am familiar with the
proceedings in this case.

2. Herewith attached is a true copy of the following:

Exhibit A: Your Declarant's Letter to the Court dated
September 7, 2007.

3. By way of background, defendants' first notice of the
instant discovery dispute was by virtue of plaintiff's letter to
the Court dated September 4, 2007 requesting a pre-motion
conference. (Exhibit 1 to Calkins Declaration). In violation of
the Federal Rules, no prior good faith effort was made to resolve
the matter without judicial assistance. Defendants responded by
letter to the Court dated September 7, 2007. (Exhibit A). While
the Court has not yet ruled upon plaintiff's request for a pre-

motion conference, plaintiff then filed a motion for the same relief on the evening of September 7, 2007.

4. In response to plaintiff's motion, and to avoid redundancy, I respectfully incorporate and adopt the contents of my letter dated September 7, 2007. (Exhibit A).

5. However, the Court will note that, in plaintiff's original letter, no allegation was made of any time constraint which would warrant early depositions of defendants outside the normal practice of this Court. (Exhibit 1 to Calkins Declaration). Defendants' letter response pointed this, as well as other issues, out to the Court. (Exhibit A). Accordingly, plaintiff's new declaration now also includes a self-serving allegation that "a very real threat exists that the vessel defendants' witnesses . . . may not be or remain in the defendants' employ." (Exhibit 1 to Calkins Declaration). What is absent from the declaration is any reason why such a threat is any greater here than in any other of the thousands of cases pending before this Court. Id. Indeed, such an ever-present threat that witnesses might re-locate, switch jobs, get hit by a bus, or any other speculative calamity plaintiff may wish to conjure is present in every case. The same threat exists with respect to plaintiff's witnesses, whom defendants have not had an opportunity to depose. Simply no good faith basis has been presented for allowing plaintiff to usurp priority in taking depositions, and any such ruling would only serve to reward the plaintiff for violating the Federal Rules, and penalize the defendants for honoring them, with respect to the timing of discovery.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

New York, New York
Executed on
September 10, 2007

Respectfully submitted,

MAHONEY & KEANE, LLP
Attorneys for Defendants
CIDO SHIPPING (HK) CO., LTD.,
CIDO SHIPPING KOREA CO. LTD.,
and WHITE PINE SHIPPING SA

By: 

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